

**UNITED STATES DISTRICT COURT**

**SOUTHERN DISTRICT OF NEW YORK**

**ROGER DUANE ORTEGO AND  
BRYAN F. GILL, JR., AS TRUSTEE  
OF THE BANKRUPTCY ESTATE OF  
ROGER DUANE ORTEGO**

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**CIVIL ACTION NO.: 07-CIV-9641**

**JUDGE HAIGHT**

**VERSUS**

**MORAN TOWING CORPORATION**

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**MOTION FOR LEAVE TO FILE FIRST AMENDING COMPLAINT**

NOW INTO COURT, through undersigned counsel, come plaintiffs, **ROGER DUANE ORTEGO** and **BRYAN F. GILL, JR., AS TRUSTEE OF THE BANKRUPTCY ESTATE OF ROGER DUANE ORTEGO**, who move this Honorable Court for leave to file their First Amending Complaint.

Respectfully submitted:

**SAKKAS & CAHN, LLP**

By: \_\_\_\_\_

  
**MATTHEW SAKKAS, ESQ. (WMS3351)**  
150 Broadway, Suite 1307  
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Attorneys for Plaintiffs, Roger Duane Ortego  
and Bryan F. Gill, Jr., as Trustee of the  
Bankruptcy Estate of Roger Duane Ortego

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

<b>ROGER DUANE ORTEGO AND BRYAN F. GILL, JR., AS TRUSTEE OF THE BANKRUPTCY ESTATE OF ROGER DUANE ORTEGO</b>	* * * * * * * * * *	<b>CIVIL ACTION NO.: 07-CIV-9641  JUDGE HAIGHT</b>
<b>VERSUS</b>	*	
<b>MORAN TOWING CORPORATION</b>	*	
<b>*****</b>		

**FIRST AMENDING COMPLAINT**

NOW INTO COURT, through undersigned counsel, come plaintiffs, **ROGER DUANE ORTEGO** and **BRYAN F. GILL, JR., AS TRUSTEE OF THE BANKRUPTCY ESTATE OF ROGER DUANE ORTEGO**, who respectfully request to amend their original complaint in the following respects:

1.

By amending the caption to read as follows:

**“UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

<b>ROGER DUANE ORTEGO AND BRYAN F. GILL, JR., AS TRUSTEE OF THE BANKRUPTCY ESTATE OF ROGER DUANE ORTEGO</b>	* * * * * * * * * *	<b>CIVIL ACTION NO.: 07-CIV-9641  JUDGE HAIGHT</b>
<b>VERSUS</b>	*	
<b>MORAN TOWING CORPORATION AND SEABOARD BARGE CORPORATION</b>	* * *	
<b>*****”</b>		

2.

By amending the introductory paragraph to read as follows:

“Plaintiffs, **ROGER DUANE ORTEGO** and **BRYAN F. GILL, JR., AS TRUSTEE OF THE BANKRUPTCY ESTATE OF ROGER DUANE ORTEGO**, by and through their attorney, complains against defendants, **MORAN TOWING CORPORATION**, a Connecticut corporation, and **SEABOARD BARGE CORPORATION**, a Connecticut corporation and a subsidiary of Moran Towing Corporation, and allege as follows:”

3.

By amending Paragraph V to read as follows:

“V.

**MORAN TOWING CORPORATION**, a Connecticut corporation with its principle place of business at 50 Locust Avenue, New Canaan, Connecticut, 06840-4737, and **SEABOARD BARGE CORPORATION**, a Connecticut corporation with its principle place of business at 50 Locust Avenue, New Canaan, Connecticut, 06840-4737 and a subsidiary of Moran Towing Corporation, are made defendant herein and are justly and truly indebted unto petitioners, **ROGER DUANE ORTEGO** and **BRIAN F. GILL, JR., AS TRUSTEE OF THE BANKRUPTCY ESTATE OF ROGER DUANE ORTEGO**, for such damages as will fully and fairly compensate petitioner, together with legal interest thereon from date of judicial demand until paid, and for all costs of these proceedings, for the following reasons, to-wit:”

4.

By amending Paragraph VI to read as follows:

“VI.

At all times pertinent hereto, **ROGER DUANE ORTEGO** was employed and assigned as a seaman aboard a special purpose vessel, *M/V The Texas*, which was owned and/or operated by

defendant, **MORAN TOWING CORPORATION** and/or **SEABOARD BARGE CORPORATION**, the employer of **ROGER DUANE ORTEGO**.”

5.

By amending the Prayer to read as follows:

“WHEREFORE, PLAINTIFFS, **ROGER DUANE ORTEGO** and **BRIAN F. GILL, JR.**,  
**AS TRUSTEE OF THE BANKRUPTCY ESTATE OF ROGER DUANE ORTEGO**, PRAY  
THAT:

- I. Defendants, **MORAN TOWING CORPORATION** and **SEABOARD BARGE CORPORATION**, be duly cited to appear and answer this complaint and that defendants be served with a copy thereof;
- II. After due proceedings has and the lapse of all delays, there be judgment herein in favor of plaintiffs, **ROGER DUANE ORTEGO** and **BRIAN F. GILL, JR.**, **AS TRUSTEE OF THE BANKRUPTCY ESTATE OF ROGER DUANE ORTEGO**, and against the defendants, **MORAN TOWING CORPORATION** and **SEABOARD BARGE CORPORATION**, for such damages as will fully and fairly compensate plaintiffs, together with judicial interest from the date of judicial demand until paid, and for all costs of these proceedings; and
- III. This matter be tried as a jury matter.


PLAINTIFFS FURTHER PRAY for all orders and decrees necessary in the premises, and for full, general and equitable relief.”

6.

Plaintiffs renew and reiterate each and every allegation contained in their original Complaint with the same force and effect as though the same was herein set forth at length.

Respectfully submitted:

SAKKAS & CAHN, LLP

By:   
MATTHEW SAKKAS, ESQ. (WMS3351)  
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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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<b>VERSUS</b>		
<b>MORAN TOWING CORPORATION</b>		
<b>*****</b>		

**ORDER**

CONSIDERING THE FOREGOING MOTION FOR LEAVE TO FILE FIRST AMENDING  
COMPLAINT filed by Plaintiffs:

**IT IS ORDERED** that the Plaintiffs are hereby GRANTED leave to file their First  
Amending Complaint.

THUS DONE AND SIGNED, this \_\_\_\_ day of \_\_\_\_\_, 2008, in  
\_\_\_\_\_, New York.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the above and foregoing Motion for Leave to File First Amending Complaint has been forwarded to the following counsel of record:

Mr. Jethro M. Eisenstein  
PROFETA & EISENSTEIN  
14 Wall Street, 22<sup>nd</sup> Floor  
New York, NY 10005-2101  
*Counsel for Defendant, Moran Towing Corporation*

by placing a copy of same in the United States Mail, first class, postage prepaid and properly addressed.

New York, New York, this 24<sup>th</sup> day of January, 2008.

  
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MATTHEW SAKKAS